

Message Text

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ORIGIN EB-07

INFO OCT-01 EUR-12 ISO-00 AID-05 CEA-01 CIAE-00 COME-00

EA-07 FRB-03 INR-07 IO-13 NEA-10 NSAE-00 USIA-06

OPIC-03 SP-02 TRSE-00 CIEP-01 LAB-04 SIL-01 AGRE-00

OMB-01 SIG-01 JUSE-00 DODE-00 DOTE-00 FMC-01 SAL-01

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FM SECSTATE WASHDC

TO ALL OECD CAPITALS

AMCONSUL HAMBURG

USMISSION EC BRUSSELS

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E.O. 11652: N/A

TAGS: EWWT

SUBJECT: JUSTICE DEPARTMENT INVESTIGATION OF OCEAN
CARRIERS

REF: A) OECD PARIS 34501; B) STATE 266737; C) STATE 256884

1. DEPT. ON DECEMBER 2 PRESENTED CIRCULAR DIPLOMATIC NOTE ON
OCEAN CARRIERS ANTITRUST CASE TO REPRESENTATIVES FR M
EMBASSIES OF BELGIUM, FRANCE, FRG,-NETHERLANDS, SWEDEN,
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AND UK. NOTE WAS PREPARED IN RESPONSE TO NOTES PRESENTED

BY NAMED EUROPEANS OCTOBER 13 (REF C) AND VIEWS
EXPRESSED BY UK DELEGATE AT OECD MARITIME TRANSPORT
COMMITTEE MEETING (REF A).

2. TEXT OF NOTE AS FOLLOWS:

QUOTE

THE SECRETARY OF STATE PRESENTS HIS COMPLIMENTS TO THEIR
EXCELLENCIES AND MESSIEURS THE CHIEFS OF MISSION OF
BELGIUM, FRANCE, THE FEDERAL REPUBLIC OF GERMANY, THE
NETHERLANDS, SWEDEN AND THE UNITED KINGDOM AND HAS THE
HONOR TO REFER TO THEIR NOTES PRESENTED ON OCTOBER 12 AND
13, 1976, CONCERNING THE INVESTIGATION BY THE UNITED
STATES DEPARTMENT OF JUSTICE OF OCEAN CARRIERS IN THE NORTH
ATLANTIC TRADE BETWEEN EUROPE AND THE UNITED STATES.

THE GOVERNMENT OF THE UNITED STATES APPRECIATES THE CONCERN
OF THE SIX GOVERNMENTS OVER THE APPLICATION OF UNITED
STATES ANTITRUST LAWS TO OCEAN SHIPPING. FOR THAT REASON
THE UNITED STATES GOVERNMENT, IN AUGUST 1975, PROVIDED
ADVANCE NOTIFICATION TO THE SIX GOVERNMENTS OF ITS
INTENTION TO UNDERTAKE A CIVIL INVESTIGATION AND, IN
AUGUST 1976, OF ITS INTENTION TO INITIATE A GRAND JURY
REVIEW. IN KEEPING WITH AGREEMENTS WITHIN THE OECD ON
ANTITRUST COOPERATION, THE UNITED STATES GOVERNMENT IS
ALWAYS PREPARED TO ENTER INTO CONSULTATIONS ON MATTERS OF
MUTUAL INTEREST AND WAS PLEASED TO DO SO WITH THE
SIX GOVERNMENTS ON OCTOBER 27, 1976, IN ORDER TO PROVIDE
AS DETAILED AN UNDERSTANDING OF THE SCOPE AND OBJECTIVES
OF THE INVESTIGATION AND REVIEW AS THE SECRECY REQUIREMENTS
OF THE CIVIL INVESTIGATIVE DEMAND STATUTE AND THE
GRAND JURY PROCEDURE PERMIT. THE UNITED STATES GOVERNMENT
CONTINUES TO BE READY AND WILLING TO ENGAGE IN FURTHER
CONSULTATIONS WITH REPRESENTATIVES OF THE SIX GOVERNMENTS,
CONSISTENT WITH THE ABOVE LEGISLATION, IN EITHER BILATERAL
OR JOINT FORMATS.

THE UNITED STATES POSITION ON THE APPLICATION OF ITS LAWS
TO INTERNATIONAL SHIPPING RECOGNIZES THE FACT THAT THE
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ACTIVITIES OF THE OCEAN SHIPPING INDUSTRY ARE BY THEIR
NATURE INTERNATIONAL AND THAT THE TRADE OF THE UNITED
STATES IS ALSO THE TRADE OF AT LEAST ONE OTHER COUNTRY.
THE UNITED STATES GOVERNMENT IN NO WAY ASSERTS A RIGHT TO
UNILATERALLY REGULATE THE CONDUCT OF OCEAN CARRIERS
PROVIDING SERVICE TO THE UNITED STATES. HOWEVER, THE
UNITED STATES GOVERNMENT MUST INSURE THAT CONDUCT OF SUCH
OCEAN CARRIERS WHICH AFFECTS U.S. COMMERCE IS NOT AT

VARIANCE WITH UNITED STATES LEGISLATION.

THE UNITED STATES GOVERNMENT DOES NOT BELIEVE THAT THE APPLICATION OF ITS ANTITRUST LAWS TO AGREEMENTS WHICH THE U.S. FEDERAL MARITIME COMMISSION HAS NOT APPROVED OR CANNOT APPROVE, AND WHICH ARE THEREFORE NOT EXEMPT FROM THOSE LAWS, WILL HAMPER THE EXPANSION OF WORLD TRADE OR THE EFFICIENT FLOW OF INTERNATIONAL SHIPPING. NOR SHOULD THIS CONSTITUTE AN INTERFERENCE WITH THE VITAL INTERESTS OF THE COUNTRIES WHOSE SHIPPING PROVIDES SERVICE TO THE UNITED STATES. THE OBJECTIVE OF THE UNITED STATES POLICY, INCLUDING THE ANTITRUST LAWS, IS TO INSURE THAT SHIPPING SERVICES ARE PROVIDED ON A SOUND ECONOMIC BASIS. AS WAS EMPHASIZED BY THE UNITED STATES DURING THE OCTOBER 27 CONSULTATION, THE CURRENT INVESTIGATION IS IN NO WAY AIMED AT UNDERMINING THE CONFERENCE SYSTEM OR IMPAIRING THE RELATIONSHIP BETWEEN CONFERENCES AND THE UNITED STATES REGULATORY AUTHORITIES. ON THE CONTRARY, THE INVESTIGATION WOULD DETERMINE WHETHER THE INTEGRITY OF THE REGULATED CONFERENCE SYSTEM HAS BEEN IMPAIRED BY THE IMPLEMENTATION OF SECRET AGREEMENTS.

THE UNITED STATES GOVERNMENT VALUES HIGHLY THE GOOD SHIPPING RELATIONS EXISTING BETWEEN ITSELF AND THE SIX GOVERNMENTS. FOR THIS REASON THE UNITED STATES GOVERNMENT HOPES THAT ANY POSSIBLE CONFLICTS INVOLVED IN THE PRODUCTION OF DOCUMENTS NEEDED FOR THE INVESTIGATION CAN BE RESOLVED AMICABLY THROUGH CONSULTATIONS. THE UNITED STATES GOVERNMENT LOOKS FORWARD TO RECEIVING THE VIEWS OF THE SIX GOVERNMENTS, EITHER SINGLY OR JOINTLY, ON THE SUBSTANCE AND FORMAT OF SUCH CONSULTATIONS AND WILL ENDEAVOR TO ACCOMMODATE THEIR WISHES IN THIS REGARD. UNQUOTE.

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3. FOR EC BRUSSELS: YOU MAY PASS COPY OF TEXT TO EC COMMISSION. KISSINGER

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Message Attributes

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